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FEB 06 2004

OFFICE OF PETITIONS

EXPRESS MAIL NO. EL976386558US

PTO/SB/64 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)
60219-13/PP-16758.003

First named inventor: Nobuyuki Itoh et al.

Application No.: 10/060,765

Art Unit: 1646

Filed: January 29, 2002

Examiner: Ruixiang Li

Title: HUMAN FGF-21 GENE AND GENE EXPRESSION PRODUCTS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity - fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$1330 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Restriction Requirement (identify type of reply):

has been filed previously on _____.
 is enclosed herewith.

B. The issue fee of \$ _____.

has been paid previously on _____.
 is enclosed herewith.

02/05/2004 AWONDAF1 00000138 040258 09828760

10060765
040258

0000002 040258
110 00 DA

01 FC:1453 1330.00 DA

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14.

02/05/2004 AWONDAF2 00000020 040258 10060765

01 FC:1453 1330.00 DA
SEA 1460606v1 60219-13
Seattle

02/17/2004 CKHLD
01 FC:1452

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$____ for a small entity or \$____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

February 2, 2004

Date

Telephone
Number:

206-628-7650



Signature

Jane E. R. Potter

Typed or printed name

1501 Fourth Avenue, Suite 2600

Address

Seattle, WA 98101-1688

Address

Enclosures: Fee Payment (Deposit Account Charge)

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below via Express Mail in an envelope addressed to: Attention: Office of Petitions, **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

February 2, 2004

Date



Signature

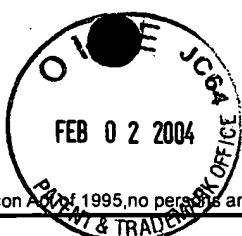
Jessica Gaunt

Typed or printed name of person signing certificate

RECEIVED

FEB 06 2004

EXPRESS MAIL NO. EL976386558US



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PTO/SB/17 (10-03)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 1330)

Complete if Known

Application Number	10/060,765
Filing Date	January 29, 2002
First Named Inventor	Nobuyuki Itoh
Examiner Name	Ruixiang Li
Art Unit	1646
Attorney Docket No.	60219-13/PP-16758.003

METHOD OF PAYMENT (check all that apply)

 Check Credit card Money Order None
 Deposit Account:

Deposit Account Number

04-0258

Deposit Account Name

Davis Wright Tremaine LLP

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) during the pendency of this application
 Charge fee(s) indicated below, except for the filing fee
 Charge any deficiencies

to the above-identified deposit account.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive – unavoidable	
1453	1,330	2453	665	Petition to revive – unintentional	1330
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

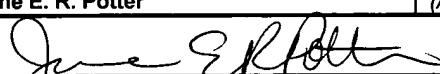
SUBTOTAL (3) (\$ 1330)

SUBTOTAL (2) (\$ 0)

**or number previously paid, if greater. For Reissues, see above

SUBMITTED BY

(Complete if applicable)

Name (Print Type)	Jane E. R. Potter	Registration No. (Attorney/Agent)	33,332	Telephone	206-628-7650
Signature				Date	February 2, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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EXPRESS MAIL NO. EL976386558US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Nobuyuki Itoh et al. FEB 06 2004
Application No. : 10/060,765 OFFICE OF PETITIONS
Filed : January 29, 2002
For : HUMAN FGF-21 GENE AND GENE EXPRESSION PRODUCTS
Examiner : Ruixiang Li
Art Unit : 1646
Docket No. : 60219-13/PP-16758.003
Date : February 2, 2004

Attn: Office of Petitions
Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

STATEMENT

This application became abandoned for applicants' alleged failure to timely file a reply to the office letter mailed on June 11, 2003. However, applicants have no record of receiving the office letter, which was a Restriction Requirement. The office letter was, according to Examiner Ruixiang Li, mailed to Seed IP Law Group. Enclosed is a copy of the printout from that law firm showing that no entry was made for any PTO correspondence during the relevant time period. If such correspondence had been received, it would have been entered under attorney docket no. 201130.408D1 and would have been forwarded to applicants' representative at Davis Wright Tremaine, LLP.

Applicants submit that the abandonment was unavoidable due to non-receipt of the June 11, 2003 office letter. Examiner Li faxed a copy of the office letter to applicants' representative on January 14, 2004, but did not include a copy of the cover page, so applicants cannot verify where the original June 11, 2003 office letter was mailed. The period of abandonment between December 11, 2003 (the final due date including extensions of time) and the filing of this Petition is due to telephone communications with the Examiner and to the time needed for review of the June 11, 2003 office letter (received on January 14, 2004) and

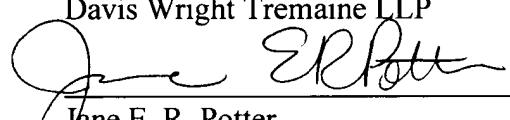
development of applicants' instructions for preparing a full response, which accompanies this petition.

If the Patent Office agrees with applicants that the abandonment was unavoidable, refund of the excess Petition fee paid under the unintentional abandonment standard is requested. The full fee under the unintentional abandonment standard is, however, paid herewith in order to avoid any further delays in prosecution.

A timely and favorable decision on Petition is respectfully requested.

If questions remain regarding this application, the Examiner is invited to contact the undersigned at (206) 628-7650.

Respectfully submitted,
Nobuyuki Itoh et al.
Davis Wright Tremaine LLP



Jane E. R. Potter
Registration No. 33,332

2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
Phone: (206) 622-7650
Fax: (206) 628-7699

ORIGINAL CORRESPONDENCE SENT TO DAVIS WRIGHT TREMAINE LLP



S&B Docket No	Date of Correspondence	Correspondence From	Atty	Description	Date Sent to DWT
12/22/2003		USPTO		Notice of Abandonment	
12/22/2003		USPTO		Notice of Abandonment	
12/1/2003		USPTO		Notice of Patent Expiration	
1/1/13/2003		USPTO		Notice of Abandonment	
1/11/13/2003		USPTO		Notice of Abandonment	
10/20/2003		USPTO		ISR	
10/22/2003		USPTO		Certificate of Registration	
9/16/2003		International Bur.		Corrected Version of Publication	
9/18/2003		USPTO		Associate Reminder re: Annuity	
8/18/2003		USPTO		Notice of Abandonment	
8/18/2003		PCT Office		Notice of Abandonment	
8/26/2003		USPTO		Invitation to Pay Additional Fees	
8/25/2000		PCT Office		Certificate of Registration	
8/11/2003		USPTO		Fee Reminder	
8/12/2003		USPTO		Associate Letter Post Grant	
8/1/2003		USPTO		Notice of Patent Expiration	
7/25/2003		USPTO		Letters Patent	
8/1/2003		USPTO		Issue Notification	
6/23/2003		USPTO		Associate Ltr re: Request Exam	
7/9/2003		USPTO		Certificate of Correction	
7/11/2003		USPTO		Examination Reminder	
6/12/2003		USPTO		Annuity Reminder	
6/17/2003		USPTO		Notice of Publication	
6/17/2003		USPTO		Notice of Abandonment	
6/2/2003		USPTO		Notice of Abandonment	
6/3/2003		USPTO		Notice of Publication	
5/20/2003		USPTO		Maintenance Fee Statement	
5/20/2003		USPTO		Notice re: Non-Renewal	
5/13/2003		Misc.		Fee Reminder	
5/12/2003		USPTO		Notice re: Non-Renewal	
		Misc.		M-Fee Reminder	
		USPTO		Loose Filing	
		USPTO		Notice of Allowance	
5/5/2003		USPTO		Assoc Fax re: Annuity Grace Period	
5/6/2003		USPTO		Office Action	
4/28/2003		USPTO		Notice of Abandonment	